IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15585 of 2005

Between:

Syed Saber Hussaini S/o Syed Mahmood Hussaini
R/o 22-7-557/I Meer Alam Mandi Hyderabad, A.P.,

..... PETITIONER

AND

1 Assistant City Planner Circle NO. II Municipal Corporation, of Hyderabad Sardar Mahal, Hyderabad
2 The Commissioenr, Municipal Corporation of Hyderabad Tank Bund, Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring action of the 1st Respondent, in issuing impugned Letter 167RW/ACP/C2/MCH/2005 dated 6-7-2005 and orally asking the petitioner to hand over the shop bearing Nos. 21-2-356 and 356/1 situated at Lad Bazar, Motigalli, Hyderabad on or before 20-7-2005 as illegal, void in contravention of Section 146 & 147 of HMC act and the law laid down by this Hon'ble Court in WP 12297/2005 dated 16-6-2005 and to restrain the Respondents from demolishing the petitioner's shop bearing No. 21-2-356 and 356/1, situated at Lad bazar, Motigalli, Hyderaabd without following due process of law.

Counsel for the Petitioner:MR.MOHD.ZIA-UL-HAQ

Counsel for the Respondent Nos.: MR.RAMA RAO GHANTA

The Court made the following :

ORDER:

1. This writ petition is filed to declare the action of the 1st respondent in asking the petitioner to hand over the original documents of properties bearing shops bearing Nos. 21-2-356 and 356/1, situated at Lad Bazar, Motigalli, Hyderabad and to vacate the premises by 20-7-2005 as illegal and in contravention of Section 146 & 147 of HMC Act.

2. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents-Municipal Corporation.

3. The learned counsel for the petitioner contended that the petitioner is the absolute owner of shops bearing Nos. 21-2-356 and 356/1, situated atLad Bazar, Motigalli, Hyderabad and he has not encroached any Government site. It is his further contention that without initiating land acquisition proceedings, and without issuing any notice, the respondents are trying to demolish his shops in the process of road widening.

4. On the other hand, the learned counsel for the respondents contended that on mere apprehension only the petitioner filed this writ petition, and the respondents have not taken any steps for demolition of shops of the petitioner.

5. The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities shall pass appropriate orders, if necessary.

6. Following the guidelines issued by this Court in the above referred judgment, I

deem it appropriate to dispose of the writ petition with a direction to the respondents not to take any steps for demolition of the house of the petitioner without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioner.

7. The Writ Petition is, accordingly, disposed of. No order as to costs.

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Elipe Dharma Rao,J.

Dated:19.07.2005

Note:

Issue CC in two days

B/o

KM

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To:

1 Assistant City Planner Circle NO. II Municipal Corporation, of Hyderabad Sardar Mahal, Hyderabad
2 The Commissioenr, Municipal Corporation of Hyderabad Tank Bund, Hyderabad

3. 2 CD Copies.

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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19th JULY, 2005.